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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Uruguay

1. The Committee considered the initial report of Uruguay (CRC/C/3/Add.37) at its 325th to 327th meetings (see CRC/C/SR.325-327) held on 30 September and 1 October 1996 and, at the 343rd meeting, held on 11 October 1996, adopted the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the written answers to the list of questions and for engaging, through a delegation involved in the policies concerning children's rights, in an open dialogue on the implementation of the Convention. The Committee notes, however, that the report was not prepared in accordance with the Committee's guidelines for the preparation of initial reports and that it mainly reflects the existing legal framework and does not contain sufficient information on other measures taken to implement effectively the rights set forth in the Convention.

B. Positive factors

3. The Committee notes with satisfaction the declaration made by the State party with regard to article 38 of the Convention to the effect that, under the Uruguayan law, children under 18 years of age cannot take part in hostilities in the event of an armed conflict.

4. The Committee notes with appreciation the strengthening of democratic institutions in Uruguay, including safeguards such as habeas corpus and amparo (remedy procedure available to citizens in case of violations of their rights), in the process of democratization of the country.

5. The Committee notes with satisfaction that important measures taken in the social area have resulted in good indicators in the areas of health and education.

C. Principal subjects of concern

6. The Committee is concerned at the insufficient measures adopted to harmonize national legislation with the principles and provisions of the Convention, in spite of the fact that international treaties ratified by Uruguay are considered to have a status equal to that of ordinary laws. The Committee is also concerned that new laws have not been enacted to address areas covered by the Convention, including laws on intercountry adoption, the prohibition of child-trafficking and the prohibition of torture. The Committee is also concerned that the Children's Code adopted in 1934, which contains a number of provisions contrary to the Convention, has not yet been revised or amended. It also regrets that a number of legal provisions contrary to the Convention are still in force, including in the areas of administration of juvenile justice, minimum age of access to employment and minimum age for marriage.

7. The Committee, while recognizing the efforts undertaken by the authorities in the collection of data, is concerned at the insufficient measures adopted to collect disaggregated data on the situation of all children, particularly those belonging to the most disadvantaged groups, including black children, disabled children, street children, children placed in institutions, including institutions of a penal nature, ill-treated and abused children or children from economically disadvantaged groups, which constitutes a major obstacle to the effective and full implementation of the provisions of the Convention.

8. The Committee is also concerned at the insufficient measures adopted to ensure effective coordination between different governmental departments competent in the areas covered by the Convention, as well as between central and local authorities.

9. The Committee expresses its concern at the insufficient budget allocation for social expenditures, in particular in favour of children belonging to the most disadvantaged groups of the population. The Committee also notes with concern the trend towards the perpetuation of poverty amongst marginalized groups of children, with almost 40 per cent of children under five years of age living in 20 per cent of the poorest households and 4 per cent of children in this age group suffering from severe malnutrition, while social and economic discrepancies persist as regards access to education and health services.

10. The Committee is concerned at the insufficient measures taken to reflect in legislation and practice the general principles of the Convention, namely non-discrimination, the best interests of the child and respect for his/her views.

11. In this regard, the Committee is particularly concerned at the persisting discrimination against children born out of wedlock, including in regard to the enjoyment of their civil rights. It notes that the procedure

for the determination of their name paves the way for their stigmatization and the impossibility of having access to their origins, and that when born to a mother or father who is a minor, these children cannot be recognized by that parent.

12. The Committee is concerned about the high rate of early pregnancy, which has negative effects on the health of the mothers and the babies, and on the mothers' enjoyment of their right to education, hampering the school attendance of the girls concerned and causing high numbers of school drop-outs.

13. The Committee is deeply concerned about the increasing incidence of abuse and violence within the family and the inadequacy of measures to prevent and combat such abuse and violence, and to rehabilitate the child victims.

14. The Committee expresses its concern at the prevalence in the country of the doctrine of "children in an irregular situation" which paves the way for the stigmatization and frequent institutionalization and deprivation of liberty of children on the basis of their economic and socially disadvantaged situation. The Committee regrets that the implementation of the provisions and principles of the Convention relating to the administration of juvenile justice has been given insufficient attention, both in legislation and in practice. In this regard, the Committee is concerned at the insufficient measures adopted to ensure, inter alia, that deprivation of liberty is only used as a measure of last resort, that children deprived of liberty are treated with humanity and in a manner which takes into account the needs of persons of their age, as well as that the rights to maintain contact with their families and to due process of law are ensured in conformity with article 40 of the Convention. Moreover, the Committee is concerned at the high number of institutionalized children and that insufficient measures have been taken to ensure effective alternatives to institutional care, and to promote their social reintegration.

15. The Committee notes with concern that child labour remains a problem in Uruguay and that measures taken to prevent it are insufficient. The Committee also notes with concern that the minimum age for employment in Uruguayan law is lower than the minimum age provided for in applicable international conventions, although Uruguay has ratified ILO Convention No. 138.

16. The Committee notes with concern the insufficient measures taken to ensure that the provisions and principles of the Convention are made widely known to adults and children alike, in accordance with article 42 of the Convention. Moreover, insufficient attention has been paid to the training of professionals working with and for children, including teachers, health workers, social workers, lawyers, police officers, chiefs of police, staff in institutions where children are detained and officials of the central and local administrations, in order to change prevailing attitudes.

D. Suggestions and recommendations

17. The Committee recommends that, in the context of the legal reform being undertaken by Uruguay in the field of children's rights, national legislation be made fully compatible with the provisions and principles of the Convention,

including non-discrimination, the best interests of the child, the child's participation and respect for his/her views. Such reform should in particular address the concerns raised by the Committee during its discussion with the State party, particularly in the areas where the national legislation is not in conformity with the Convention.

18. The Committee also recommends that further measures be taken to gather systematic quantitative and qualitative data, disaggregated, inter alia, by age, gender, colour, rural/urban and social origin, on all areas covered by the Convention and in relation to all groups of children, particularly the most disadvantaged groups. In this regard, it suggests that further cooperation be ensured with UNICEF with a view to assessing and evaluating progress achieved, identifying difficulties and setting priorities for future action.

19. The Committee suggests that steps be taken to ensure effective coordination between the existing institutions involved in the protection and promotion of children's rights at the central and local levels, and that the establishment of an independent monitoring body (Ombudsman) competent in children's rights be given further consideration by the Government.

20. The Committee recommends that the State party, in the light of articles 2, 3 and 4 of the Convention, undertake all appropriate measures to the maximum extent of its available resources to ensure that sufficient budgetary allocation is provided to services for children, particularly in the areas of education and health, and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups. In this regard, the Committee suggests that the "child-impact" of such decisions be assessed on an ongoing basis.

21. The Committee suggests that measures be adopted by the State party to provide appropriate assistance to the family in the performance of its child-rearing responsibilities, with a view, inter alia, to preventing domestic violence and abuse, abandonment and institutionalization of children, and to promoting research in these areas.

22. With regard to the high rate of early pregnancy prevailing in Uruguay, the Committee recommends that measures be adopted to provide appropriate family education and services for young people within the school and health programmes implemented in the country.

23. The Committee also suggests that appropriate alternatives to institutional care be developed, with the best interests of the child as the primary consideration, as well as the promotion of his or her harmonious development and preparation for responsible participation in society. In cases where the placement of children in institutions is necessary, measures should be adopted to ensure periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

24. The Committee recommends that a system of administration of juvenile justice be established in the framework of the principles and provisions of the Convention, in particular its articles 37, 39 and 40, as well as other United Nations standards in this field, such as the United Nations Standard

Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. In this connection, the Committee recommends that the State party consider seeking international assistance in this area from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the United Nations.

25. The Committee recommends that legislative and preventive measures be taken to address the issue of child labour and, in particular, to raise the minimum age for access to employment, in conformity with the Convention and with ILO Convention No. 138, as well as to create awareness of the importance of education and vocational training to provide the child with needed skills and knowledge. The Committee suggests that the Government of Uruguay consider requesting further technical assistance from ILO in these matters.

26. In the light of article 42 of the Convention, the Committee recommends that training programmes on the rights of the child be conducted for professionals working for or with children, including teachers, health workers, social workers, lawyers, police officers, chiefs of police, staff in institutions where children are detained and officials of the central and local administrations. Measures should also be adopted to incorporate children's rights in school curricula at all levels. The Committee believes that information campaigns on children's rights will contribute to ensuring visibility to children within Uruguayan society and to changing negative attitudes towards children. Such campaigns should aim at eradicating discriminatory attitudes towards children, especially those belonging to vulnerable and marginalized groups, and enhancing respect for their fundamental rights. In this regard, the Committee underlines the importance of the general principles of the Convention, namely the best interests of the child, the child's participation and respect of his or her views, respect of the principle of non-discrimination and the right to life, survival and development to the maximum extent, which should guide and inspire all training and information programmes in this area.

27. The Committee recommends that, in accordance with article 44, paragraph 6, of the Convention, the State party widely publicize its report, the summary records of the discussion and the concluding observations adopted by the Committee and that it give consideration to the organization of a Parliamentary debate on the implementation of the Convention.